

**PROTECTING PERMANENT RENTAL HOUSING SUPPLY: FORMALIZING
SHORT-TERM RENTALS VIA “AIRBNB” REGULATIONS**

by

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ABSTRACT

The advent of short-term rental platforms such as Airbnb, Flipkey, and HomeAway have generated new challenges for urban planners and policy makers in various jurisdictions throughout Canada and the world at large. Airbnb and other short-term rental companies are rapidly expanding and reshaping urban and rural housing markets. What started out as a way for residents to earn some “extra cash” has become commercialized by hosts who own, lease, or otherwise acquire dozens of homes for the purpose of turning them into short-term tourist accommodations. Seen as disruptive by the traditional hotel/accommodation sector, a nuisance by community residents, and a factor complicating an affordable housing crisis, steps are being taken to formalize the informal short-term rental business in many Canadian municipalities. In conjunction with Fairbnb Canada, this project examined the current policies and policy recommendations to regulate short-term rentals in the following ten (10) Canadian jurisdictions: Calgary, Edmonton, Ottawa, Kelowna, Oshawa, Hamilton, Banff, Whistler, St. John’s, and Montreal. An analysis of a selection of current academic literature was completed to identify effective methodologies for implementation of policy tools and their effectiveness in regulating short-term rental tourist accommodations. Interviews with key informants within the examined ten jurisdictions provided insight into the challenges facing policy makers in the development of regulations to govern short-term rentals in their respective jurisdictions. This project concluded that short-term rentals have had a significant impact on housing rental markets in the examined jurisdictions. The regulatory environment in the analyzed ten Canadian jurisdictions is fluid, and the regulatory policies implemented share the following characteristics: Licensing, registration, maximum allowable rental days, primary residence, taxation, safety standards, and enforcement regulations, which remains an ongoing challenge.

Key Words: Affordable Housing; Short-term Rental; Sharing Economy; Airbnb, Urban Planning.

FOREWORD

Informal urbanism (occupations, housing, transportation, art, etc.) is often relegated to the abode of the global South, and a significant amount of literature has been developed by academics and professional planners regarding this issue (Devlin, 2018). Unfortunately, the same cannot be said about informal urbanism in the global North. Author Garth Myers asserted that many conceptualizations of informality “miss the wider ways in which housing, land, infrastructure and services, as well as politics and social organizations, develop informally, and the ways in which state agencies and other formal institutions act informally- or act to produce informality (Myers, 2011:10). The response by policy makers to regulate short-term rentals may be seen as creative policy innovation or policy led informality.

My Plan of Study (POS) entailed three areas of concentration: urban planning, global south, and informality. In fulfillment of the requirements of the MES degree I completed a major project report, focusing on informality, which is one of my areas of concentration. I had two primary objectives in examining informality:

- To garner a greater understanding of the causes and of informality and the impact of informality within the broader society.
- To understand how geo-political processes impact planning and development (formal and informal).

Informality is usually regarded as that which is not regulated by the state (Roy, 2005). Jake Wegmann, Assistant Professor at the University of Texas asserted that there are four types of informality,

- Non-compliance - transgression of formal rules

- State produced informality - selective enforcement
- Deregulation - spaces where no actual laws are violated
- Interwoven - informal adoptions informal integrated into formal housing (Wegmann and Mawhorter, 2017).

Although informal housing is often seen primarily as a characteristic of the global South, issues of affordability and housing shortages within the cities of the global North are forcing policy makers to produce policy responses to address the issue of informal housing practices (Millington, 2016).

Working as a part of the Fairbnb coalition campaign, which is calling for a “robust nationally consistent policy framework to ensure ‘homesharing’ complies with fair, safe and respectful legislation- drawing on the experience of other countries and other cities” (Fairbnb, 2019), I was tasked with completing this project, examining the current policies or policy recommendations in ten Canadian jurisdictions selected by Fairbnb. The project examined the policy innovations, by which the informal practices of short-term rental enterprises are being formalized through regulatory measures in Calgary, Edmonton, Ottawa, Kelowna, Oshawa, Hamilton, Banff, Whistler, St. Johns, and Montreal, which were selected by Fairbnb Canada. An examination of how policy makers and urban planners address the conflicting standpoints of homeowners wanting to earn extra cash, the concerns of the hotel industry, affordable housing advocates, community complaints, and tax revenue, will help to inform effective future policies to address regulation of informal short-term rental enterprises.

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1.0 INTRODUCTION

1.1 CONTEXT

Sharing economy platforms have increased in popularity over the past few years. Once unknown and unheard-of companies such as Lyft, Uber, and Airbnb have become household names, and they have changed the way we commute, eat, work, and travel among other activities. While sharing platforms offer convenience and arguably a new way in which people can monetize their cars and homes, to earn some extra cash, they have also disrupted traditional business models. The taxi and motel industry, for example, have been negatively impacted, to the extent that policy makers and regulators have had to feverishly scramble to come up with a regulatory framework to manage these burgeoning companies. (Guttentag, 2015; Devlin, 2018).

The short-term rental market in Canada has had brisk growth. Here are just a few facts to illustrate this growth:

- The estimated value of the short-term rental market in Canada is \$2.8 billion in 2018(Feng, 2019).
- The market grew tenfold from 2015-2018 (Feng, 2019).
- Ontario, British Columbia, and Quebec are the largest short-term rental markets in Canada. The combined short-term rental revenue of these three provinces makes up 90% of total short-term rental revenue in 2018 (Feng, 2019).
- Canada has over 200,000 short term rental listings with most listings in Toronto, Vancouver, and Montreal (Feng, 2019).

There have been increasing concerns about the impact of unregulated short-term rental accommodations, including but not limited to safety of guests, community safety, and impact on housing affordability (Aguilera, 2019).

The proliferation of short-term rentals (STRs) has had a material impact on rental housing markets across Canada. Airbnb along with other short-term rental platforms (e.g. HomeAway, Flipkey, VRBO, etc.) have contributed to the escalating shortage of long-term rental accommodations in many Canadian municipalities, including Toronto, Montreal, and Vancouver, as well as numerous cities around the world (Wachsmuth, Kerrigan and Chaney, 2017). Thorben Wieditz, of Fairbnb Canada asserted that in Toronto, about 6500 homes have been permanently removed from the City's housing supply, which has exacerbated the growing affordable housing crisis (Wieditz, 2019). Short-term rentals are also often perceived as a nuisance by neighboring houses/units due to noise, garbage, and parking issues caused by "wild parties" hosted by Airbnb guests. As a result of these trends Canadian municipalities are wrestling with trying to develop fair and equitable policies to regulate short-term rentals.

1.2 INFORMALITY

Addressing urban challenges in cities requires a close examination and interrogation of capitalism. Capitalism is tied directly to globalization, geo-political pressure, financialization of housing, informality, and socio-political disenfranchisement (Myers, 2010:5). According to Myers informality is a "very complicated word." Myers stated that "recent writing on the informal sector in urban Africa has argued for 'reconsidering' informality more broadly, beyond small business or employment" (Myers, 2010:5). Myers continued by stating that "more economist conceptualizations miss the wider ways in which housing, land, infrastructure and services, as well as politics and social organizations, develop informally, and the ways in which state agencies, and

other formal institutions act informally- or act to produce informality” (Myers, 2010:8). Understanding the issue of how capital influences state actors and the formal sector is paramount to obtaining a profound understanding of capitalism’s impact on planning and political policy.

In past years planning practitioners and planning scholars asserted that informal housing was for the most part, non-existent within the global North (Wegmann and Mawhorter, 2017). The informal urbanisms of the global South are often seen as the necessity of the poor to overcome oppressive financial, transportation, and housing conditions, but the same informal actions taken by those in the global North are seen as creative alternatives to improve “efficiency and convenience” (Devlin, 2018). In the current age of the sharing economy, Uber and Airbnb, among many others, have become booming industries. Ryan Devlin argues that Uber is

“an informal solution to inadequate public transit networks... and both [Airbnb] (an internet based apartment sharing company) and illegal rooming houses in immigrant neighborhoods operate outside zoning and building codes yet serve the affordable housing needs of urban residents...” (Devlin, 2018:570).

Devlin asserted the informal actions of residents within the global South, specifically regarding housing, and that of urban residents of the global North has become increasingly undifferentiated. The development of informal housing, both in the global South and North is “a de facto source of otherwise scarce affordable housing” (Wegmann and Mawhorter, 2017:1).

The primary difference with the informal housing created via Airbnb in the global North and the informality seen in the global South is that the Airbnb is for short term housing accommodations. Thorben Wieditz of the Fairbnb.CA coalition report titled *Addressing Toronto’s Housing Crisis ?* stated, “if the Local Planning Appeal Tribunal (LPAT) were to approve Toronto’s short-term rental rules today Airbnb would have to delist 8,241 non-compliant properties which

could add up to 6,500 homes to Toronto's long term housing supply" (Wieditz, 7). Toronto, having a 1% vacancy rate (Globe and Mail, 2020), faces increased housing precariousness and informality for many of its residents due the lack of affordable housing, in both the purchase and rental markets.

1.3 FAIRBNB

Fairbnb Canada is a coalition based in Toronto, that seeks to bring together organizations from the regulated hotel and B&B industry, property owners, property renters, and concerned citizens as well (Wieditz, 2019). The coalition whose members include Advocacy Centre for Tenants Ontario (ACTO), Association of Community Organizations for Reform Now (ACORN), and The City Institute of York University (CITY), to name a few, has been drawing attention to the impact of Airbnb on rental markets in Canadian cities including Toronto and Vancouver.

Canadian municipalities are struggling to create regulatory frameworks that will formalize short-term rentals and prevent sharing platforms such as Airbnb from negatively impacting their housing markets, Fairbnb has stated that it is "calling for a robust, nationally consistent policy framework to ensure home sharing complies with fair, safe, and respectful legislation- drawing on the experience of other countries and other cities"(Wieditz, 2019). In Canada, Toronto and Vancouver recently approved regulations to protect their housing markets and to mitigate the impact of short-term rentals on an escalating affordable housing crisis, which engulfs both cities (Jamasi, 2017). In these two jurisdictions short-term rentals have been regulated and legalized, taking them from informal to formalized rental accommodations, but there are many municipalities in Canada that are still in the process of drafting similar legislation.

For organizations such as Fairbnb Canada, it is of utmost importance to remain informed about where Canadian jurisdictions currently are with their efforts to regulate internet-based short-

term rental companies. A jurisdictional scan of various Canadian municipalities will help to establish best practices for policy makers to create a regulatory framework and assist Fairbnb Canada in assessing where Fairbnb Canada could intervene in the policy process.

1.4 OBJECTIVES

Although the coalition was launched in Toronto, Fairbnb Canada and organizations like it need to remain informed about where Canadian jurisdictions currently are, with their efforts to regulate internet based short-term rental companies such as Airbnb. Working in conjunction with Fairbnb Canada, this project conducted a jurisdictional scan to determine where ten Canadian jurisdictions are with regards to the development of short-term rental regulations. What follows is a list of jurisdictions that Fairbnb has an interest in learning more about their proposed/implemented short-term rental policies and regulations:

- Calgary
- Edmonton
- Ottawa
- Kelowna
- Oshawa
- Hamilton
- Banff
- Whistler
- St. Johns
- Montreal

This research project investigated the policy recommendations and implementations to regulate short-term rentals within the ten stated Canadian jurisdictions, selected by Fairbnb, and to add to the existing body of knowledge concerning short-term rental regulations within the Canadian context.

2.0 METHODOLOGY

In order to meet the objectives of this project and provide summary information pertaining to short-term rental regulations in ten Canadian jurisdictions, a mixed methods research methodology was implemented. Using a mixed methods approach allowed me to combine an analysis of secondary academic research, an analysis of recommended and implemented short-term rental regulations (jurisdictional scan) within the aforementioned ten Canadian jurisdictions, and a qualitative methodology of ten structured interviews with key policy makers in ten preselected Canadian jurisdictions.

2.1 LITERATURE REVIEW

First, a review of current academic literature (within the past five years) on short-term rentals (STRs) was conducted. The study drew primarily from peer-reviewed articles on the impact of STRs and proposed or implemented regulations in various Canadian, American, and European cities, to garner broader understanding of how various municipalities have addressed the problematic issues caused by unregulated STRs. Although reviewed literature came primarily from academic sources, literature from NGOs, think tanks, and consulting firms were also utilized.

Recent news articles were also examined to garner a greater understanding into the ongoing discourse surrounding the debate on short-term rental platforms such as Airbnb. News articles provided insight into the political atmosphere surrounding the debate in various Canadian

jurisdictions. All sources were found by utilizing York University library system and publicly available resources (e.g. JSTOR, ProQuest, Google Scholar...).

2.2 JURISDICTIONAL SCAN

A jurisdictional scan of the following Canadian cities was conducted following the initial literature review:

- Calgary
- Edmonton
- Ottawa
- Kelowna
- Oshawa
- Hamilton
- Banff
- Whistler
- St. Johns
- Montreal

Jurisdictional scans are decision-making tools used by governments and organizations to do the following:

1. Consider how problems have been framed in other jurisdictions (Shewchuk, 2019).
2. Compare and evaluate options based on the action(s) taken in other jurisdictions in response to similar problems (Shewchuk, 2019).

3. Identify and anticipate implementation considerations associated with options (Shewchuk, 2019).

The jurisdictional scan was employed to categorize and evaluate current and proposed municipal government policies regulating short-term rentals within the ten selected jurisdictions. A qualitative content analysis of municipal government policy documents on formalizing short-term rentals, specifically on platforms such as Airbnb, was conducted, and the establishment of best practices and areas for intervention by Fairbnb Canada was documented. The cities selected for the jurisdictional scan were chosen by Fairbnb Canada and identified as cities, for which they currently have little information.

2.3 INTERVIEWS

The final phase of the research project consisted of a survey of municipal councilors within the ten selected jurisdictions. Participants were identified and selected based on their professional involvement in development of the regulatory framework governing short-term rentals within their respective jurisdictions. Selected councilors were emailed an informed consent form along with a pre-formatted questioner consisting of five (5) questions. The purpose of the survey was to develop a greater understanding of the political processes involved in establishing a regulatory framework for short-term rentals in the selected jurisdictions, and to garner professional opinions on best practices for establishing said framework, compliance and enforcement.

All questions for the interviews were pre-formatted and asked of all the professional interviewees in the selected jurisdictions. The purpose of the survey was to illicit professional opinions on STR policies/regulations and to garner information that may not exist within the public

domain. The responses were analyzed and summarized for key themes in the development of short-term rentals regulations.

The following questions were asked of all interviewees in the ten selected jurisdictions:

1. What is your primary concern about short-term rentals in your jurisdiction?
2. What current or proposed regulations are in place in your jurisdiction, and what is your opinion on the effectiveness or potential effectiveness of said regulations?
3. What are the challenges in regulating short-term rentals in your jurisdiction?
4. How do you think the regulations on short-term rentals in your jurisdiction can be enhanced/improved?
5. Is Airbnb and other similar online platforms beneficial or a disruptive phenomenon in your jurisdiction?

Upon completion of the project a summary report was written and submitted to Mr. Thorben Wieditz of Fairbnb Canada for review, and to York Faculty of Environmental Studies for MES Final Examination.

3.0 LITERATURE REVIEW

As housing prices increase exponentially, through the financialization of housing and speculative buying, much needed affordable housing will become an increasingly scarce commodity (Barron, Kung and Proserpio, 2018). The advent of Airbnb and similar online short-term rental platforms has further complicated the affordable housing crisis in many cities in the global North, in essence creating an informal housing market. (Barron, Kung and Proserpio, 2018). Airbnb and other short-term rental companies are rapidly reshaping urban and rural housing markets. What started out as a way for residents to rent out some or all of their homes a few times

a year, to earn some additional income, has become commercialized by hosts who own, lease or otherwise acquire dozens or in some cases a vast number of homes for the purpose of turning them into tourist accommodations. It is estimated that approximately 6500 homes in Toronto alone, have been lost to Airbnb and other short-term rental companies, which in turn exasperates the City's housing shortage crisis (Wieditz, 2018).

Airbnb has experienced tremendous growth and success since its inception in 2008. The Airbnb short-term rental platform connects homeowners (hosts) with tourists seeking reasonably priced accommodations in various destinations around the world (Wachsmuth and Weisler, 2018). Airbnb books the accommodation reservation, charges a fee of 8-18 percent of the booking, and by doing so the company has acquired over five million listings across 81,000 cities worldwide and is valued at \$31-\$38 billion as of March 2017 (Trefis Team, 2018). Airbnb's closest competitor, HomeAway, a Texas based company, has approximately half the number of listings (Wachsmuth and Weisler, 2018; Gurran, 2018). With such success, one may argue that Airbnb is an innovative, trend setting, entrepreneurial, startup, behemoth, but while being loved by Wall Street investors, Airbnb has attracted many detractors, who are calling for government regulations to formalize the short-term rental market (Wachsmuth and Weisler, 2018; Gurran, 2018).

In many cities around the world, Airbnb and other short-term rental (STR) platforms have been blamed for disruption of the traditional hotel/lodging industry and for negatively impacting neighborhood housing markets (Nieuland and Van Melik, 2018; Wachsmuth and Weisler, 2018). As a result of the "perceived" disruption to their housing markets, cities around the globe are struggling to find ways to regulate short-term rental platforms such as Airbnb (Nieuland and Van Melik, 2018). Shirley Nieuland & Rianne Van Melik argue that "so far, most regulations are failing to achieve their goal, as they approach Airbnb as a traditional industry player, not taking much of

its innovative aspects into account (Nieuland and Van Melik, 2018:2). Although regulations have been put into place in many cities, the regulations tend to vary and are geared towards each city's individual circumstances (Nieuland and Van Melik, 2018). One certainty does exist, despite Airbnb's proclamations of creating a unique tourist experience, job creation, and being an additional revenue generator, complaints persist about rent increases, gentrification, and limited housing availability (Nieuland and Van Melik, 2018).

Daniel Guttentag argued that while Airbnb is innovative it can best be classified as a "disruptive innovation" (Guttentag, 2015). The theory of disruptive innovation was coined in the early 1990's by Harvard Business School professor Clayton Christensen (Guttentag, 2015). Guttentag explained that "this theory outlines a process through which a disruptive product transforms a market, sometimes to the point of upending previously dominant companies" (Guttentag, 2015:1194). In other words, "disruptive innovations are not breakthrough technologies that make good products better; rather they are innovations that make products and services more accessible and affordable, thereby making them available to a larger population" (Christensen Institute, 2019). The theory appears to be well placed when considering the rise of Airbnb and other sharing platforms such as Uber, which cater to specific need of their clients and offer their services at a discounted price from traditional companies who offer a similar service.

Beyond being perceived as disruptive to traditional businesses, Airbnb and other short-term rental companies are often seen as contributors to the housing affordability crisis facing many cities (Wachsmuth and Weisler, 2108). Wachsmuth & Weisler asserted that "cities are struggling to address urgent shortages of affordable housing and there is evidence that commercial interests in the [short-term rental] industry are removing residential units from housing markets and thereby contributing to even higher rents" (Wachsmuth and Weisler, 2018:1150). The ongoing debate is

particularly concerned with the “whole unit” rental which takes up an entire unit, as opposed to utilizing a spare room within the unit for rental income (Wegmann, 2017). The perceived commercialization and removal of private homes from the scarce rental stock is further aggravated when the whole unit is rented out, on a short-term basis, continuously throughout the year.

Legislators and activists are also concerned over the issue of taxation or more accurately the lack of tax revenue being collected by local governments from Airbnb and its users (Wachsmuth and Weisler, 2018). Taxes are the main means through which municipal authorities reduce the cost of infrastructure and increased demand for services due to tourism and residential development, and the development of a tax regime for short-term rentals is needed as a part of any regulatory regime proposed by municipalities (Gurran and Searle, 2018). In New York State the Attorney General accused Airbnb of failing to pay \$33 million in occupancy taxes for the period of years consisting of 2010-2014 (Wachsmuth and Weisler, 2018; Real Affordability for All, 2015).

In light of increased protest by community groups, housing advocates and academics, government officials are seeking to formalize the short-term rental market through development of new policies and regulations (Wachsmuth, Kerrigan and Chaney, 2017). The City of Toronto is no exception to the challenges presented to the upsurge in short-term rental listings, which has startlingly increased by 288% between 2011-2016 (Jamasi, 2017). In responding to the increase in short-term rental listings and concerns over the impact on the housing market, Toronto city council has proposed several new rules to regulate the short-term rental market. Zohra Jamasi noted that “these measures effectively legalize short-term rental commercial activities while placing restrictions that should help curb the steep rise of quasi-hotel condos and nuisance short-term rentals in residential neighbourhoods” (Jamasi, 2017:2). Various regulatory models have been

proposed throughout Canadian jurisdictions that are impacted by vast number of short-term rental accommodations popping up in diverse neighbourhoods (Jamasi, 2017). Jamasi asserted that “...policy makers have been tasked with addressing five key issues when considering a regulatory model. These include: commercial host activity, the impact of housing availability and affordability, tax avoidance, and the impact on economic development” (Jamasi, 2017:2).

Although regulations are being proposed to formalize the informal tourism created by short-term rentals, the question of enforcement has been problematic (Nieuland and Van Melik, 2018). There are four commonly used types of restrictions placed on short-term rental companies such as Airbnb (Nieuland and Van Melik, 2018):

1. *Quantitative restriction*- Limiting the amount of STR locations, the number of visitors, and/or days rented, as well as limiting the amount of times a STR can be rented annually.
2. *Locational Restrictions*- Restricting where STRs can be located
3. *Qualitative Restrictions*- determining whether a room, and apartment, or entire house can be rented.
4. *Density restrictions*-Limiting the amount of STRs in a particular area. (Nieuland and Van Melik, 2018).

Where are the urban planners in the Airbnb, short-term rental debate? Nicole Gurran answered the question and stated, “despite such protest, voracious media interest, and increasing attempts by the cities to respond to the online rental phenomenon, urban planning researchers have been surprisingly silent on home sharing overall and Airbnb in particular” (Gurran, 2018:298). Considering the extraordinary increase in home-sharing platforms and the variety of challenges facing Canadian jurisdictions, that urban planning researchers would be more active in the debate, to help formulate policies to regulate the trade. Planners have a fiduciary obligation to ensure the

“public good” and as such should find ways to regulate and enforce regulatory policies. There are most definitely risks associated with unregulated or ill-enforced policies pertaining to short-term rentals. Gurran asserted that “a primary risk arising from online accommodation platforms is that they enable unlicensed accommodation providers who do not comply with existing public health and safety standards which would apply to regulated tourism operators” (Gurran, 2018:300). Gurran further noted that from a planning perspective there is also the issue that “unregulated visitor accommodation undermines spatial strategies designed to cluster tourist facilities in particular locations accessible attractions and related facilities and services (Gurran, 2018:300).

The need to change existing regulations pertaining to Airbnb and other short-term rental platforms are being addressed by local governments throughout many Canadian jurisdictions, and as such there are “important implications for planning enforcement” (Ferrerri and Sanyal, 2018:3353). Analyzing best practices from various Canadian jurisdictions will help to inform future policy and assist, planners, government officials and the public in formulating effective regulations to formalize the short-term rental market and companies like Airbnb.

4.0 FINDINGS

Jurisdictions within Canada and throughout the world have enacted or are in the process of developing municipal regulations/policies for short-term rental platforms such as Airbnb. These policies differ in their application, but the overall purpose is to implement an effective, enforceable, and sustainable regulatory framework that protects and promotes an adequate supply of quality, safe, accessible, and affordable rental housing. In developing their own approach, it is useful for jurisdictions in Canada to develop an understanding of the best practices that other jurisdictions have implemented or are currently proposing to address the issue of short-term rental regulations.

A jurisdictional scan was conducted to explore the municipal regulations and policy recommendations of ten Canadian jurisdictions. The ten selected jurisdictions included: Calgary, Edmonton, Ottawa, Kelowna, Oshawa, Hamilton, Banff, Whistler, St. Johns, and Montreal. These jurisdictions were selected by Fairbnb Canada and constitute jurisdictions where they have little or no regulatory framework information. This section will explore the regulatory policies in greater detail and provide a summary of the approaches used in each jurisdiction. (Please refer to **Appendix 1&2**).

4.1 CALGARY

Population: 1,285,711 (2019) (City of Calgary, 2019)

Number of Renting Households: 140,370 (27% of Households) ¹

Total Number of Households: 521,257 (City of Calgary, 2019)

Vacancy Rate: 3.9% ²

Calgary is the largest city in Alberta, despite not being the provincial capital, and the third largest city in Canada. Although Calgary had the *Rental Tenancies Act*, which regulates the obligations between landlord and tenants, and the *Innkeepers Act*, which legislated hotel and motel operators, the city did not have any specific regulations governing short-term rental accommodations. In 2019 the City of Calgary proposed bylaws licensing short-term rentals. On September 30, 2019, the city council took a definitive step towards short-term rental regulations,

¹ Canadian Mortgage and Housing Corporation, 2018. <https://www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/rental-market-reports-major-centres>

² Canadian Mortgage and Housing Corporation, 2018. <https://www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/rental-market-reports-major-centres>

by passing the proposed bylaw 32M98 which includes a two-tiered business license category for short-term rental hosts. The new bylaw took effect on February 1, 2020.

Calgary has defined short-term rental as “the business of providing temporary accommodation for compensation, in a dwelling unit or portion of a dwelling unit for periods of up to 30 consecutive days” (City of Calgary, 2019). Businesses that hold a Bed & Breakfast permit are exempt from the bylaw, as they are not classified as short-term rentals. Under the new bylaw all hosts must acquire a separate short-term business license for each property they intend to rent out.

A Tier 1 license cost \$100 under the new bylaw and will only be available for hosts who rent one to four rooms. The Tier 1 license will make up approximately 90% of license applicants and can be approved within 24 hours (City of Calgary, 2019). Hosts renting out five or more rooms will be required to obtain a Tier 2 license. The Tier 2 license cost \$172 plus an additional cost of \$104 per property, for fire safety inspection. Both Tier 1 and Tier 2 operators are required to maintain a full record of guests (written in English & electronic form) and permanent records of each transaction, as a condition of their license. The record must include full name and address of guests, room they will be occupying, and the duration of their stay. (City of Calgary, 2019).

A legal secondary suite may also be used for short-term rental under the new bylaw. A secondary suite is classified as a “self-contained dwelling within the principal residence or backyard” and it must contain separate, living, sleeping, bathroom, and kitchen facilities. The secondary suite must be a legal secondary suite and a short-term rental license must be acquired.

There are several other conditions that must be adhered to by short-term rental licensees under the new bylaw:

- Each rented room must have one or more egress windows (multi-storied apartments /condos have existing fire safety standards and are exempt from having egress windows. (City of Calgary, 2019).
- No more than two adults, not including minors in each room (City of Calgary, 2019).
- No overlapping bookings. A host cannot allow two or more unrelated or unassociated persons to occupy the unit at the same time (City of Calgary, 2019).
- All short-term rental advertisements must include a valid business license (City of Calgary, 2019).
- Emergency contact information of someone who can be reached 24/7 (name, phone number, and email address) must be posted in rental unit (City of Calgary, 2019).

Failure to comply with any of the stated regulations for short-term rentals will result in a fine of \$1000.

4.2 EDMONTON

Population: 972,223 (City of Edmonton, 2019)

Number of Renting Households: 151,715 (30% of Households) ³

Total Number of Households: 360,825 ⁴

Vacancy Rate: 4.9% (2019)⁵

³ Canadian Housing and Mortgage Corporation, 2018. <https://www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/rental-market-reports-major-centres>

⁴ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

⁵ Canadian Housing and Mortgage Corporation, 2019. <https://www.cmhc-schl.gc.ca/en/data-and-research>

Short-term rental listings in Edmonton have increased significantly, with over 2,239 active short-term rental listings as of 2019 (Feng, 2019). The City of Edmonton defines short-term rental as “a residential accommodation for 30 consecutive days or less” (City of Edmonton, 2019). To regulate short-term rental accommodations the City of Edmonton Urban Planning Committee voted to recommend the adoption of a new Business License By-law (18942) on August 20, 2019. The bylaw regulates all short-term rental providers offering three (3) rooms or less in the same location, whereas hotels are accommodations that have four (4) or more rooms in the same location for rent. The bylaw went into effect February 1, 2020 and is described by city council as a starting point for the regulatory process. There are several conditions which an individual with a short-term rental license must adhere to. The requirements are as follows:

- The licensee must provide guests with an official copy of the information guide of the City’s bylaws, which outlines rules pertaining to noise, disposal of garbage, and parking (City of Edmonton, 2019).
- The host must post their phone number in the rental property (City of Edmonton, 2019).

The by-law also prohibits the operation of any unlicensed short-term rental accommodation. A fee of \$94 is payable when applying for a license, and the City will notify Alberta Health Services once the license is issued. Alberta Health Services will/may follow up with licensee to ensure compliance with health regulations. Infractions of the City short-term rental bylaw will result in a \$2000 fine. (City of Edmonton, 2019).

The new Business License By-law adopted by Edmonton city council requires a development permit for “major home-based business”, if the host/operator resides at the rental premises, and this also applies to bed and breakfast operations. This measure was adopted despite

numerous complaints by citizens, who stressed that non-owner-occupied rental units had a far greater negative impact on the community (City of Edmonton, 2019). Committee members did however, consider future changes to the by-law including background checks of host/operators, increased fines, suspension of host license, and a possible municipal levy on short-term rental platforms such as Airbnb (City of Edmonton), should the current regulations prove inadequate.

4.3 OTTAWA

Population: 934,243 ⁶

Number of Renting Households: 125,285 (34.3%) (City of Ottawa, 2019)

Total Number of Households: 373,755 (2016) (City of Ottawa, 2019)

Vacancy Rate: 1.6 (2018) (City of Ottawa, 2019)

The City of Ottawa has not officially formalized its short-term rental market, which has 4600 listings on Airbnb alone (Britneff, 2019), but City council has voted in favor of a regulatory framework that aims to restrict short-term rentals on platforms such as Airbnb, HomeAway, Flipkey, and VRBO by absentee owners. The new rules will restrict short-term rentals in Ottawa, which are defined as less than 28 consecutive days, to the primary residence of the host/operator, as well as coach houses, rural cottages, secondary suites, and vacation homes on short-term rental platforms (City of Ottawa, 2019). Short-term rentals of commercial and investment properties in residential neighbourhoods will still be restricted under the new by-law (City of Ottawa, 2019).

The short-term rental bylaw has not yet been drafted, but City council anticipates having a draft bylaw written and approved by early 2020. The by-law will be piloted for three years and

⁶ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

will require short-term rental platforms and property managers to register and provide pertinent information on listings. Short-term rental hosts will be required to pay \$100 for a permit that will be valid for a period of two years and show proof of residence, such as a lease or mortgage documents (City of Ottawa, 2019).

City council will also put in place punitive measures, should a host/operator not comply with the new regulations. All short term rental operators are required to abide by rules pertaining to community nuisances, health and safety, and consumer protection, and the host/operator permit may be revoked or a fine imposed for any infraction of the new bylaw (City of Ottawa, 2019).

4.4 KELOWNA

Population: 151,957 ⁷

Number of Renting Households: 22,977 (26%) (City of Kelowna, 2018)

Total Number of Households: 67,767 ⁸

Vacancy Rate: 1.9% ⁹

As of July 1, 2019, the City of Kelowna requires all short-term rental operators to be licensed. In the City of Kelowna, a short-term rental is defined as a residential rental period of 29 days or less (City of Kelowna, 2019). Under the new bylaw, an individual who is a homeowner or tenant may rent out their primary residence on a short-term basis. Short-term rentals outside of the

⁷Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

⁸ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

⁹ Canadian Mortgage and Housing Corporation, 2018. <https://www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/rental-market-reports-major-centres>

operator's principal residence is only allowed in select tourist and health district zones (City of Kelowna, 2019).

An individual seeking a business license must reside in the home for a period of 8 months out of the year for the home to qualify as their primary residence. The license applicant does not have to be the owner, as a tenant having written approval from their landlord may also apply if the home is their principal residence. Short-term rentals are not permitted in basement suites of primary residences or vacation homes.

To begin the process an applicant must complete the business license application and submit the following documentation:

- Self-evaluation Fire & Safety Form (City of Kelowna, 2019).
- Good Neighbour Agreement Form (City of Kelowna, 2019).
- Parking Plan (City of Kelowna, 2019).
- Principle Residence Status Documentation (if applicable) (City of Kelowna, 2019).
- Ownership Verification Documentation or Consent Form (City of Kelowna, 2019).
- Stratus Consent Form (if applicable) (City of Kelowna, 2019).

Some other eligibility requirements include:

- Only one booking is permitted in a residence at a time (City of Kelowna, 2019).
- Properties may have up to three bedrooms except of multi-unit and commercial zoning, where it is limited to two bedrooms (City of Kelowna, 2019).
- Two adults per bedroom (maximum) (City of Kelowna, 2019).

- Fire and safety plan must be posted in each bedroom and entrance (including operators name, address of property, emergency contact/24 hours, designated meeting point, location of extinguishers, and location of window exits) (City of Kelowna, 2019).
- Appropriate safety measures must be in place in case of emergency. (City of Kelowna, 2019)

If the application is approved by the City of Kelowna, the applicant must pay a fee of \$345 for principal residence short-term rental operator's license or \$750 for Non-principal residence (Tourist commercial & Health district zones) short-term rental operator license (City of Kelowna, 2019).

Kelowna has put in measures to ensure short-term rental operators comply with the new rules and regulations. Violators may face fines of up to \$500 a day if they do not comply with the rules, and operators must allow City inspectors to examine their short-term rental accommodations upon request. Operating a short-term rental without a license will result in a fine of no less than \$100.00 and no more than \$10,000.00 (City of Kelowna, 2019).

4.5 OSHAWA

Population: 308,875 ¹⁰

Number of Renting Households: 30,875 (22%) ¹¹

Total Number of Households: 116,268 ¹²

¹⁰ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

¹¹ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

¹² Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

Vacancy Rate: 2.7% ¹³

The City of Oshawa has not formalized its short-term rental market through specific regulations such as a licensing by-law, but Oshawa updated By-Law 60-94 in May 2018 to address short-term rentals as a “land use” in the City (City of Oshawa, 2019). Short-term rentals are defined within By-law 60-94 as “...all or part of a dwelling unit that is used to provide temporary accommodation, not including a cancer lodge, crisis care residence, or university residence” (City of Oshawa, 2019). As a result of the update to the by-law the following short-term rental zoning regulations currently exist:

- A short-term rental is a permitted use in all zones that permit dwelling units
- A short-term rental may only provide temporary accommodation for any rental period that is less than 28 consecutive days and not exceeding a combined total of 180 days in a calendar year (City of Oshawa, 2019).
- The short-term rental unit must be the host/operator’s principal residence, as defined in the Income Tax Act (City of Oshawa, 2019).
- No bed and breakfast, home occupation, other rental accommodation, group home or lodging house is permitted in any dwelling unit which contains a short-term rental (City of Oshawa, 2019).
- A short-term rental cannot change the external residential appearance of the dwelling unit or contribute to the adverse effects such as, but not limited to, those

¹³ Canadian Mortgage and Housing Corporation, 2018. <https://www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/rental-market-reports-major-centres>

from excessive traffic, parking, noise, and hours of operation (City of Oshawa, 2019).

Oshawa is currently in the process of formulating a business licensing regulation that will formalize the short-term rental market. The City has undertaken a public consultation and industry stakeholder process to determine the best practices in developing a short-term rental business licensing regulation. The City of Oshawa understands that Short-term rentals present a number of benefits to the community, including supplementary income and affordable alternative short-term accommodations, but the City also recognizes that a licensing system for short-term rentals (STR's) "should consider balancing the benefits of STR's while mitigating potential negative effects to their operation" (City of Oshawa, 2020:7).

The highlights of the proposed new licensing system include:

- Establishing new and updating existing definitions in the licensing By-law as necessary (possible examples include Short-term Rental and Short-term Rental Operator) (City of Oshawa, 2020).
- Introducing a new schedule to the licensing By-law to license STR Operators (City of Oshawa, 2020).
- Licensing STR operators on an annual basis (City of Oshawa, 2020).
- Requiring applicants to attest to compliance with various rules and standards, including City by-laws and the Ontario Fire Code (City of Oshawa, 2020).
- Requiring STR operators to supply an emergency contact, available 24 hours a day, responding within 1 hour of emergency call (City of Oshawa, 2020).
- Undertaking property and record inspections in response to complaints and on an audit basis (City of Oshawa, 2020).

- Introducing a Renters Code to educate guests about City by-laws and renter responsibilities (City of Oshawa, 2020).
- Limiting the number of rooms being rented to four (4) if an STR operates by the room (no room limit if entire home is rented) (City of Oshawa, 2020).
- Requiring STR operators to share operating data (e.g. the number of nights rented the previous year) (City of Oshawa , 2020).

Licensing fees will be implemented to offset the cost of licensing administration and enforcement. The existing application fee of \$75 will remain and a proposed \$75 licensing fee will be imposed.

The City of Oshawa recognizes that enforcement is necessary and will use three major tools to achieve compliance. Education, Administrative Monetary Penalties (AMP's), and Provincial Offences Act fines/charges will be used as enforcement tools. Education involves educating violators about relevant City by-laws, with the intent that they comply thereafter. AMP's will be based off of existing applicable licensing By-Law and includes a \$500 fine per owner per occurrence for operating without a license and a \$250 fine per occurrence per owner, for any contravention of any provision of the licensing system (City of Oshawa, 2020). Should Education and/or AMP's not achieve compliance from a violator and for more serious contraventions, staff may choose to use the POA system. The POA system includes fines of no less than \$500 and no more than \$100,000 for each day that the violation continues, as determined by the courts (City of Oshawa, 2020).

4.6 HAMILTON

Population: 536,917 ¹⁴

Number of Renting Households: 71,333 (32%)¹⁵

Total Number of Households: 211,600 ¹⁶

Vacancy Rate: 3.9%¹⁷

Currently short-term rentals on platforms such as Airbnb, HomeAway, VRBO, and FlipKey are unregulated and unlicensed in Hamilton. Unlike bed and breakfast (B&B) accommodations, which are considered hotels and are currently licensed and regulated under Schedule 3 of the City’s Business Licensing By-Law 07-170, short-term Airbnb type rentals have no by-laws governing them in Hamilton at this time. Legally, no one is supposed to rent out rooms or entire homes for short periods of time in Hamilton unless they are operating a hotel, motel, or B&B. However, this has not stopped the proliferation of short-term rentals within the City of Hamilton.

Motivated by complaints from residents within his constituency, regarding strangers coming and going in various homes, Councillor Chad Collins has appealed to Hamilton City Council to formalize short-term rentals by creating a regulatory framework to govern them. On July 14, 2017 Council approved Councillor Collins’ motion for staff to report back to the Planning Committee on the legislation adopted by the City of Toronto regarding “Airbnb Lodgings” with the intention to adopt the same regulatory framework in Hamilton (City of Hamilton, 2018). On

¹⁴ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

¹⁵ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

¹⁶ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

¹⁷ Canadian Mortgage and Housing Corporation, 2018. <https://www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/rental-market-reports-major-centres>

November 14, 2017 Staff Report PED17203, licensing Short Term Rentals, detailed the ongoing issue of STRs globally, the positive and negative impacts they have had, and the zoning/licensing challenges various municipalities have had in attempts to regulate Short-term rentals on various online platforms (City of Hamilton, 2018).

The Hamilton City Council decided to focus on creating a consultation process, zoning changes, and licensing/registration regime to address the short-term rental issue. A public engagement strategy was developed and implemented in September 2018. The public engagement strategy was comprised of the following:

- On-line survey (City of Hamilton, 2018).
- Three-month marketing and communications campaign commencing in July 2018 to achieve maximum participation for the on-line survey (City of Hamilton, 2018).
- Consultation meeting with identified stakeholders (City of Hamilton, 2018).

City Council decided that future regulations to short-term rentals in Hamilton could be achieved through amending the Business Licensing By-Law 07-170, specifically to the definition and specific use requirements. The consultation period concluded December 2019. Hamilton City Council will now attempt propose a regulatory regime modelled after the regime for short-term rentals in the City of Toronto, that will ensure public safety, nuisance and consumer protection, support entrepreneurship and tourism, and protect the long term rental supply (City of Hamilton, 2018).

4.7 BANFF

Population: 7,847¹⁸

Number of Renting Households: 2318 (61%) (Town of Banff, 2018)

Total Number of Households: 3,800 (Town of Banff, 2018)

Vacancy Rate: 1.8 (Province of Alberta, 2018)

The Town of Banff has policies in place which restrict short-term rentals traditional Bed and Breakfast operations and hotels. The Town of Banff has a “Land Use” By-Law which identifies a number of land use districts within the Town boundaries. The By-Law states that only 65 B&Bs may operate in Banff at any given time, with limits in each district, and additional regulations for bed and breakfast operations are detailed in the specific use regulations of the Land Use By-law. A B&B must be registered under the Land Use By-Law and obtain the applicable business license. The town of Banff is also in a unique situation, in that it is situated in a national Park, regulated by Parks Canada. This unique situation allowed Parks Canada to enact a “Need to Reside” provision. The provision dictates that anyone occupying residential properties in Banff must also be employed within the Town as well. Proof of resident status must be provided to Parks Canada before applying for a B&B license.

All Bed and Breakfast must comply with several rules including but not limited to the following:

- A Bed and Breakfast home may only be located within single detached housing (Town of Banff, 2020).

¹⁸ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

- A Bed and Breakfast shall be operated by a live-in owner as an accessory use (Town of Banff, 2020).
- A bed and Breakfast home shall not contain more than four guest rooms (Town of Banff, 2020).
- A Bed and Breakfast shall not change the principle residential character, use or external appearance of the dwelling. (Town of banff, 2020).

There is a \$180 base fee for residents applying for a business license plus an additional “schedule B” fee, which is determined annually in accordance with section 22 of the By-Law.

David Michaels, a Development Planner with the Town of Banff, issued a report on August 14, 2017, detailing the enforcement activities of the planning department on illegal short-term rental listings. Michaels stated that the issue of STR enforcement became a primary issue for Banff due to its negative effect on their rental housing market and overall housing shortage (Rocky Mountain Outlook, 2017). Michaels further stated that the Towns proactive enforcement activities have limited the number of STR listings on platforms such as Airbnb, VRBO, Facebook, Kijiji, and the like, but the fact that legally approved commercial accommodations also have advertisements on these platforms, makes enforcement a tedious and time consuming endeavor (Rocky Mountain Outlook, 2017). The Town of Banff is currently reviewing its Bed and Breakfast regulations, specifically B&B quotas established in the Land Use By-law and taxation, in order to address ongoing concerns over the increasing volume of short-term rentals and the current housing shortage for residents.

4.8 WHISTLER

Population: 8,713 ¹⁹

Number of Renting Households: 960 (Resort Municipality of Whistler, 2018)

Total Number of Households: 3,365 ²⁰

Vacancy Rate: 0.3% (Resort Municipality of Whistler, 2018)

The resort Municipality of Whistler requires a business license for property owners to market and provide paid accommodation to tourists. The requirement applies to all vacation rentals. Whistler asserts that its tourist accommodation/short-term rental market is regulated to “protect the viability of Whistler’s tourist accommodation sector, the visitor experience, housing supply for residents and neighbourhood character” (Resort Municipality of Whistler, 2020).

Whistler Council adopted and endorsed the Tourist Accommodation Regulation By-Laws in 2017 after an extensive review of policies and regulations regarding rental accommodations in Whistler. A new business license requirement was added as part of the new regulations to “support and reinforce existing zoning and covenant provisions, provide clarity to property owners..., and focus on illegal nightly rentals and tourist accommodations” (Resort Municipality of Whistler, 2020). The business license fee is \$190 annually plus \$25 per accommodation unit rented by one license holder. In other words, an individual with a license and one unit for rental accommodation will pay \$215 in total. Individuals/companies with multiple units will pay \$190 for the license plus \$25 for each unit of accommodation (Resort Municipality of Whistler, 2020).

¹⁹ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

²⁰ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

Enforcement of the existing Tourist Accommodation By-law in Whistler is primarily done through targeting illegal advertisements for rental accommodations, no proof of rental activity is required for punitive measures to be imposed. An infraction of the by-law may result in a fine up to \$500 per infraction. Property owners who persist on advertising short-term rentals without a license on platforms such as Airbnb, VRBO, FlipKey, and HomeAway will be fined \$1000 per day if caught. The property must be zoned for tourist accommodation in order to obtain a license to facilitate short-term rentals.

A property zoned residential cannot obtain a license to market short-term rental accommodations (Resort Municipality of Whistler, 2020). In Whistler “residential” zone is defined as “a fixed place of living in which a person intends to return when absent”. Property owners who are interested in earning some extra income from their property but whose home is situated in a residential zone may still do so through Whistler’s “HomeRun” program. The HomeRun program, launched in 2016, permits homeowners to rent their homes to local businesses to provide affordable housing to local workers. The homeowner can choose to manage their own property while using the HomeRun program to obtain renters, or they can choose to have the Whistler Housing Authority manage all aspects of the rental process (leasing, rental payments, and maintenance).

Short-Term Rental regulations in Whistler can be easily understood by the following chart:

Figure 1: STR Path



(Resort Municipality of Whistler, 2020)

4.9 ST. JOHN'S

Population: 108,860 ²¹

Number of Renting Households: 3,296 (Total Rental Apartments) (Harrison, 2019)

Total Number of Households: 47,625 ²²

Vacancy Rate: 6.3% ²³

²¹ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

²² Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

²³ Canadian Mortgage and Housing Corporation, 2018. <https://www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/rental-market-reports-major-centres>

To date, the city of St. John's, Newfoundland has no short-term rental regulations, which govern short-term rentals on platforms such as Airbnb. St. John's and other municipalities in Newfoundland and Labrador have however, formally agreed to work with Hospitality Newfoundland and Labrador to develop short-term rental guidelines (CBC News, 2019). The primary purpose of the intended guidelines is for the City of St. John's and other municipalities to be permitted to tax short-term rentals listed on Airbnb and similar platforms.

St. John's Mayor Danny Bren has openly stated that he would like to see short-term rentals on platforms such as Airbnb subject to the 4% Marketing Tourism Levy tax that is imposed upon hotels and bed and breakfast accommodations. The issue with implementing the tax is that Airbnbs are not registered with the province, thereby restricting the City from imposing a tax (CBC News , 2019). Larry Laite, Chairman of Hospitality Newfoundland and Labrador stated in a 2019 news release "Hospitality Newfoundland and Labrador welcomes short-term rentals to the tourism industry, but only if they are regulated to the same standards and codes as the rest of the accommodations sector" (CBC News, 2019). Several provincial departments including: Tourism, Culture, Industry, and Innovation, Department of finance, Municipal affairs and Environment, and Service Newfoundland and Labrador, have formed a working group to find a successful method of regulating short-term rentals in the sharing economy. There is precedence for a tourism tax as several jurisdictions (BC, Quebec, and Ontario) in Canada have already implemented a tourism tax on short-term rentals on Airbnb (Hospitality Newfoundland and Labrador, 2020).

4.10 MONTREAL

Population: 1,942,044 ²⁴

Number of Renting Households: 63% (City of Montreal, 2017)

Total Number of Households: 939,112 ²⁵

Vacancy Rate: 1.5% ²⁶

The province of Quebec requires, by law (Act Respecting Tourist Accommodation Establishments), that an individual wanting to use their residence (outside of their primary residence) on a regular basis, as a short-term rental (less than 31 days) accommodation must obtain a certificate of classification from Tourism Quebec. Tourism Quebec defines a residence as a suite, an apartment, a house, a cottage, a site for camping, or a ready-to-camp and the term “regular basis” as being recurrent, habitual, and/or constant (Corporation de l'industrie touristique du Quebec , 2020). To obtain a certificate of classification one must agree to the following:

- abide by municipal regulations (Corporation de l'industrie touristique du Quebec, 2020).
- obtain \$2 million dollar liability insurance (Corporation de l'industrie touristique du Quebec, 2020).
- publicly list your accommodation (Airbnb, VRBO, HomeAway...) (Corporation de l'industrie touristique du Quebec, 2020)
- Residence must pass CITQ inspection (Corporation de l'industrie touristique du Quebec, 2020).

²⁴ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

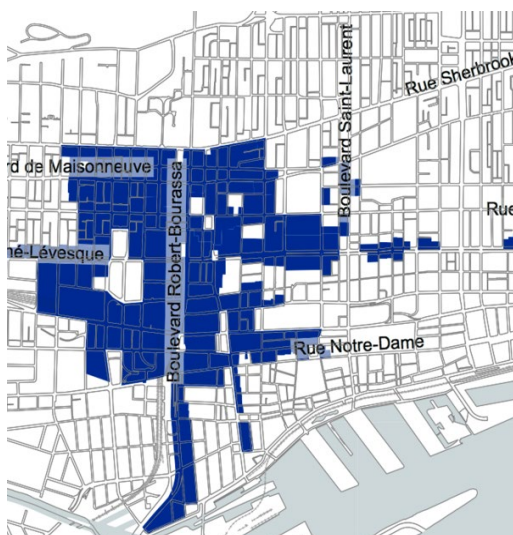
²⁵ Statistics Canada, 2016. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

²⁶ Canadian Mortgage and Housing Corporation, 2018. <https://www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/rental-market-reports-major-centres>

The classification certificate serves as authorization to operate an establishment and replaces the operating permit used before the Act was adopted. The certificate is valid for 24 months and has an annual fee of \$256.28 plus \$5.40 per accommodation. Fines for non-compliance of the Act range from \$500-\$50,000 for individuals and \$1000-\$100,000 for businesses (Government of Quebec, 2020)

Once an individual has cleared the provincial hurdles to operating short-term rental accommodations, they must also comply with short-term rental regulations imposed by the city of Montreal. In Montreal, the Master Plan details the city's planning and development goals. Part I specifically details building density policies, while Part II outlines policies in each borough including zoning by-laws, land use designations, and other urban planning by-laws. There are various restrictions on short-term rentals in each borough. The figure below is one example of an area specific restriction (in blue), where a property must have a minimum of 150m between short-term rental units.

Figure 2: Restriction Downtown Montreal



(Lucky.ca, 2019)

In September 2019 new rules for short-term rentals (less than 31 days) on platforms such as Airbnb came into effect in Montreal. The new rules require that short-term rental operators obtain a registration number and a permit through the province, primarily for tax purposes, and the registration number must be included on each advertisement the operator places on any platform. The purpose of the new rule is for Revenue Quebec to collect a 3.5% accommodation tax every time an accommodation unit is rented. The tax is paid by tourists (short-term renters) and is applied each time an accommodation is rented more than six hours (City of Montreal, 2020). Permission from the condominium association is required by individuals wanting to rent their condo on Airbnb type platforms and individuals living in duplexes or triplexes will require permission from owners. The rules apply to the primary residence of the short-term rental operator, as the aforementioned rules apply for secondary residences. Anyone wishing to obtain a permit to rent their property on a short-term basis must pay a fee of \$75 and register the unit with Revenue Quebec. Fines for non-compliance of the rules may result in a fine of up to \$10,000 for individuals and \$25,000 for a corporation (City of Montreal, 2020).

5.0 DISCUSSION

The key findings of the literature review and jurisdictional scan are similar and among the ten Canadian jurisdictions examined, the regulatory frameworks that have been proposed have similar characteristics such as: licensing and registration, principle residence condition, safety provisions, taxation (Hotel/STR specific), maximum number of guests, and new zoning by-laws. Licensing and registration on the municipal level is the most implemented regulation to short-term rentals. The licensing and registration systems allow municipalities to issue a license number to identify hosts and track any complaints as the number generally must be posted on all advertisements.

Overwhelmingly, councillors in the ten examined jurisdictions expressed that the primary residence rule is perhaps the most important regulation to administer and perhaps the most challenging. Councillors agreed that the owner-occupied rental units were generally less problematic and contributed positively to the sharing economy. Renting out a room a few times a year was seen as a home-based business by most licensing regimes but renting out an entire home was viewed as “irresponsible” and a leading cause of nuisance complaints. Furthermore, whole unit rentals were considered as commercial enterprises in residential zones by many of the councillors interviewed. Trying to find a set of solutions that govern both parts of the market has been challenging.

Enforcement of proposed regulations and recently adopted regulation is challenging. A large proportion of short-term rentals were technically not permitted under existing zoning by-laws. Councillors expressed that the willingness for community residents to forgo antiquated zoning by-laws and embrace the sharing economy to benefit themselves financially makes enforcement difficult. In principle, homeowners and in some cases renters, feel that government intervention limits their freedom to do as they will with their own property. Generally, nuisance or party homes are reported to local authorities, with the balance of short-term rentals operating with little or no oversight. Thorben Wieditz of Fairbnb Canada recently shared the findings of an analysis conducted by Fairbnb on all Toronto listings on the Airbnb short-term rental platform. Wieditz indicated that despite regulations by the city of Toronto that prohibit entire homes from being rented for more than 180 days and only primary residence can be rented out, there were 9,700 listing in apparent contravention of the regulations and 7,354 entire home rental listings in January 2020 (Fox , 2020). Enforcement support from the STR platform itself will be the most

effective way to enforce regulations that are in place. Wieditz asserted that if those units were added to the long-term rental stock the City's vacancy rate would go from 1.3% to 2% (Fox, 2020).

Banff offers a good example of effective short-term rental regulations with an effective enforcement mechanism. There are a number of regulations in Banff regarding short-term rental accommodations. Through the Land Use Bylaw, in order to use a property for short-term rentals, you must have an approved development permit for Commercial Accommodation Unit (*Commercial Accommodation Unit means a room or suite of rooms containing at least one bed within a hotel, hostel, bed and breakfast home, or a bed and breakfast inn, where short term accommodation is offered to the travelling public for remuneration*) (Town of Banff, 2020). It is only possible through the Land Use Bylaw to be granted a Commercial Accommodation Unit in a residential property through an approved Bed and Breakfast which has an extensive set of requirements that must be met in order to be approved. The number of Bed and Breakfasts in each Land Use District is also limited, and the Business License bylaw also requires that anyone offering a short-term rental accommodation must have a business license (Town of Banff, 2020).

The current regulations in Banff are very effective in limiting the ability to have illegal short-term rental accommodations, and through active monitoring, online vacation rental suites are forced to comply with the regulations or shut down. The proactive approach to enforcement has resulted in a decrease in violations and a higher percentage of compliance in the community (Town of Banff, 2020). The Planning and Development department of the Town supports and protects the long term rental supply through the development and enforcement of the appropriate bylaws.

6.0 CONCLUSION

As previously mentioned, Airbnb has been categorized as being part of the “informal tourism sector” and as a part of the sharing economy in many academic studies (Arcaute, 2018; Guttentag, 2015), but a closer examination reveals that it is neither of the two. The simple yet vague definition associated with the “informal sector” is an undertaking which takes place outside of government regulations, avoiding taxation, and operating beneath the “formal sector” (Koster, 2019). Although Airbnb and similar online short-term rental platforms entered the marketplace as an alternative (informally) to “formal” accommodations (hotel, motel, and bed and breakfast), allowing tourists to rent short-term accommodations in rooms or entire homes of people within various communities, all the while, avoiding government regulations (zoning bylaws) and taxation (Arcaute, 2018). To associate this under-regulated, profit driven type enterprise with the informal enterprises of impoverished individuals throughout the Global South, who are simply attempting to provide services for each other, for a nominal fee, which is then used to provide themselves with the basic necessities of life would be preposterous. However, within the Global North the wealthy often benefit from the lack of government regulations (Roy, 2005), such as taking advantage of the opportunity to profit from home ownership, presented by unregulated short-term rental platforms such as Airbnb. One must remember that “informal practices and arrangements are part and parcel of the workings of the state” (Jaffe, 2019:2). Advantages are also granted to the wealthy in a regulated environment, by the nature and intensity of enforcement (Jaffe, 2019), or the lack thereof. In terms of the “sharing economy” Airbnb and other online peer-to-peer short-term rental platforms are more akin to “a business relationship masquerading as communal sharing” (Arcaute, 2018:3).

Commercial short-term rental accommodations hosts are home owners, who have multiple listings, including multiple condominium suites and entire homes (Wachsmuth, 2017), are seen as

the true face of the profit driven online short-term rental market, and the perpetrators of the severe negative impact on the long-term rental market supply by many of the policy makers that I interviewed. A healthy vacancy rate is 3% or higher, but six out of the ten jurisdictions examined, including Montreal, Ottawa, and Oshawa, have a vacancy rate of less than 3%. Councillors in all of the examined jurisdictions expressed a need to mitigate the impact of short-term rental platforms such as Airbnb on their housing market, by protecting their long-term rental housing supply. Fairbnb noted that 79% of Airbnb's revenue in Ottawa is generated by commercial operators, not a residential host seeking to make some extra cash by renting out a room (Fairbnb Coalition, 2019). Homes rented out by commercial operators, remove much needed homes from the rental stock of any jurisdiction they operate in (Fairbnb Coalition, 2020). The most significant effect of the reduction in the long-term rental accommodations due to short-term rental platforms is an increase in rents and a decrease in housing affordability.

The under-regulated enterprise of online short-term rental platforms such as Airbnb have grown tremendously over the past years (Wachsmuth, 2017). The rapid growth is due in part to their low cost of entry into the marketplace, not needing to build accommodations or pay any regulatory fees, but the negative impact they produce is due to the short-sightedness of policy makers, who did not closely examine the long-term implications on their respective housing markets and potential precariousness of low income service workers in the accommodations industry. The primary concern among many policy makers, when attempting to regulate short-term rental platforms such as Airbnb, seems to be the institution of a licensing regime that provides revenue in the form of taxation for their jurisdiction. The regulatory policies that are developed often lack effective enforcement mechanisms, and often leave the short-term rental host to self-regulation, or enforcement relies on members of the community filing a complaint. Policy makers

have been reactive and need to become more proactive in their regulatory policy creating measures, if they truly want to curtail the severe negative impact to the long-term rental supply and housing affordability, which impacts lower income individuals and families disproportionately (Wachsmuth, 2017).

The possibility exists for under-regulated short-term rental platforms, municipalities, and communities to develop fair, equitable, and sustainable regulatory regimes that will protect the long-term rental supply, maintain housing affordability, and provide much needed tax revenue. The political will to create such a regime must be present where it is now lacking, and stringent effective enforcement mechanisms must be put in place.

7.0 APPENDICES

7.1 APPENDIX 1 - Jurisdictional Scan

Municipality	Calgary		Edmonton	Ottawa	Kelowna	Oshawa
License Categories	Tier 1	Tier 2	STR	STR	STR	STR
Annual Business Licenses	(Yes) \$100 T1 \$172 T2 plus \$104/ Unit		Yes \$94	\$100	Yes \$345 Primary residence. \$750 Non- Principal residence	\$75
Permitted in Rental Properties	Yes		Yes	Yes	Yes	Yes
Safety Provisions	Yes		Yes	N/A	Yes	1 hour emergency contact/ 24hrs availability
Building and Development Permit	No		Yes	No	No	No
Municipality	Calgary		Edmonton	Ottawa	Kelowna	Oshawa

Permitted in Secondary Suites	Yes/ Tier 1	Yes	Yes	N/A	N/A
Maximum Number of Guests	4 bedrooms/T1 or 9 guest. T2 No Maximum	2 bedrooms or 4 guest	N/A	3 bedrooms max, 2 adults/ bedroom, 1 booking /residence	4 rooms max if by room/ no max if whole house is rented
Hotel Tax Applied to STRs	No	No	No	No	No
Additional Provisions	Contact info must be posted/keep guest record Fine of \$1000 for non-compliance	Provide guest guide info sheet Health inspection \$2000 fine for non-compliance	Proof of residence	\$500/day fine for violations \$100-\$10,000 fine for no license	\$75 application fee in addition to \$75 license fee

7.2 APPENDIX 2 - Jurisdictional Scan

Municipality	Hamilton	Banff	Whistler	St. John's	Montreal
License Categories	N/A	B&B	All Vacation rentals/ No residential STR's	No	Classification Certificate (outside of primary Residence)
Annual Business Licenses	N/A	Yes \$180, residents only	Yes \$190 plus \$25/ license holder (\$215) Commercial \$190+ \$25/ unit	No	\$256.28 plus \$5.40/ accommodation 4 \$2 million liability Insurance
Permitted in Rental Properties	N/A	No	No	N/A	Yes
Safety Provisions	N/A	N/A	N/A	N/A	N/A
Building and Development Permit	N/A	N/A	N/A	N/A	N/A
Permitted in Secondary Suites	N/A	N/A	N/A	N/A	N/A
Municipality	Hamilton	Banff	Whistler	St. John's	Montreal

Maximum Number of Guests	N/A	4 guest rooms	N/A	N/A	N/A
Hotel Tax Applied to STRs	N/A	N/A	N/A	No	3.5% accommodation tax
Additional Provisions	Public Consultation has been completed. Council will decide on proposed regulations	Land use By-law restricting number of B&Bs' to 65	'Homerun' program allows residential rental to business employees	City is in conversation with Province to impose tax levy.	Various rules/borough zoning by-laws. \$500-\$50,000/Individual fine. \$1000-\$100,000/business fine.

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